In the High Court of Punjab & Haryana at Chandigarh

FAO No.5174 of 2005

Date of decision: 7.8.2006

Raj Singh Vs. Khursid and others

CORAM: HON'BLE MR. JUSTICE UMA NATH SINGH
HON'BLE MR. JUSTICE S.D. ANAND

Present: None for the appellant

UMA NATH SINGH, J.

The matter was listed on 4.8.2006 but since learned counsel did not appear even in the second round after pass over, it was adjourned for today in the interest of justice. Today no one appears. We have carefully examined the award. The appeal by the claimant arises out of a judgment/ award dated 25.8.2005 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Jind, in MACT Case No. 9 of 2003, awarding a sum of Rs. 50,000/- in an injury case while holding the claimant liable for contributory negligence . It appears that the appellant Raj Singh said to be a driver by profession, was employed on a truck (HR-4512214) and was earning Rs. 12,000/- per month. On the date of accident being 22.2.2002, he was away to village Barsola while driving this truck at about 1.00 AM in the night. Suddenly, a "Neel Gaye' appeared on the road, and to avoid collision, he steered the truck on conductor's side. It is also his case that, at that time, another truck bearing registration No.RJ-02G/3281driven by respondent No.1 brought the truck on wrong side resulting in collision between both the vehicles. It is further the claimant's case that he as well as the conductor of the other truck sustained injuries. He also claimed to have sustained fracture and was admitted in General Hospital, Jind. According to

him, a sum of Rs. 70,000/- was spent on his treatment. A DDR. No.3 dated 2.3.2002 was also recorded. The claimant-driver is said to have been in possession of a valid driving licence. However, on a careful examination of rival evidence , the Tribunal has come to the conclusion that the drivers of both the trucks were rash and negligent which resulted in the accident. Accordingly, both of them were held to be equally liable for contributory negligence. According to the appellant, he suffered fracture at the left leg and stopped working. He also produced disability certificate to the extent of 8% due to fracture of left femur with plating. The appellant is said to have spent only Rs. 6,000/- vide receipt Ex. P.3 on plastic surgery. That apart, bills Ex. P6 to P 18, being indicative of medical expenses, were produced showing that he was admitted in the hospital. Though it was submitted on behalf of the appellant that the treatment of injury is not complete and the appellant would be spending further amount of Rs.5,000/-, the said plea was not accepted by the Tribunal. Thus the tribunal in total calculated Rs. 70,000/-being spent on the treatment, and towards pain and suffering and Rs. 30,000/- for disability. As such, an award of Rs. One lac was passed but since the appellant is said to have been held liable for contributory negligence on the basis of evidence, he was held entitled to receive 50 per cent amount with 7.5% interest per annum. Thus, we do not find any merit in this appeal. In the result the impugned award is affirmed, and FAO (being No. 5174 of 2005) is hereby dismissed.

(UMA NATH SINGH)
JUDGE

August 07, 2006. **(S.D. ANAND)**
dsg **JUDGE**

Whether refer to reporter Yes / No